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AUDIO SERVICES
DIVISION

January 25, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

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JAN 25 1993
FEDERAL COMMUNICATIONS COMMISSION
SECRETARY

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 25 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In Re Application of:

DAVID A. RINGER

File No. BPH-911230MA

Application for Construction
Permit for a New FM station,
Channel 280A, Westerville, Ohio

To: Chief, Audio Services
Division

SUPPLEMENT TO PETITION TO DENY AND DISMISS THE APPLICATION
OF DAVID A. RINGER

Ohio Radio Associates, Inc. ("ORA"), by its attorneys,
pursuant to Sections 73.3584(a) and 73.3587 of the Commission's
Rules, hereby submits this supplement to its petition to deny and
dismiss the application of David A. Ringer ("Ringer"). On March
26, 1992, ORA filed a petition to deny and dismiss the application

778 F.2d 28, 34 (D.C. Cir. 1985). ORA and one other applicant in this proceeding propose such acceptable tower sites and no party has contested their availability and suitability.

The applications in this proceeding were filed for a channel

18, held that directional antennas, pursuant to section 73.215, could not be used to perpetuate "grandfathering" caused by a deleted station.

The Commission, at paras. 15-16, further held that it is established practice to remove vacant allotments which do not meet the minimum spacing requirements, whenever the opportunity arises. According to the Commission, short-spaced channels are inefficient and the public interest is best served by not allowing them.


However, the vacant Westerville allotment does not have to be deleted because fully-spaced and technically suitable tower sites exist and are available. The problem here is that Ringer and other applicants insist on using an existing tower which is 6.84 km. short-spaced. These applicants insist that this use is permissible because the previous Westerville licensee, with which they have no privity, was "grandfathered" under Section 73.213. However, in view of John M. Salov, that rationalization has no merit and must be rejected.

The holding of John M. Salov is also consistent with other Commission precedent which is applicable to this proceeding. In MM Docket No. 87-121, 6 FCC Rcd 5356, 5360, para. 27 (1991), the Commission ruled that directional antenna applications would be granted under Section 73.215 only in those exceptional circumstances where no fully-spaced tower sites are available and only in cases of necessity. Ringer, of course, cannot make such a showing.

WHEREFORE, in view of the foregoing, the application of Ringer is impermissibly short-spaced and must accordingly be dismissed with prejudice.

Respectfully submitted,

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January 25, 1993

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CERTIFICATE OF SERVICE

I, Stephen T. Yelverton, an attorney in the McNair Law Firm,
P.A., do hereby certify that on this 25th day of January, 1993, I
have caused to be hand-delivered a copy of the foregoing